

Exhibit 9

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -

IN THE MATTER OF

IN RE: LEHMAN BROTHERS HOLDINGS INC., ET AL.,
Debtors.

- - - - -

DEPOSITION OF RUGGERO MAGNONI

VOLUME I

Tuesday, November 17th, 2015

AT: 2:30 p.m.

Taken at:

Hogan Lovells
50 Holborn Viaduct
London
EC1A 2FG
London
United Kingdom

CONFIDENTIAL

Court Reporter:

Chris Lang
Accredited Real-time Reporter

1 A P P E A R A N C E S

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21 NOTARY: MICHELLE SCOTT-BRYAN

22 VIDEOGRAPHER:

23 WENDY VINER
24 Videographer
25

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1 Tuesday, November 17, 2015

2 (2:27 p.m.)

3 THE VIDEOGRAPHER: Here begins the videotaped deposition of
4 Ruggero Magnoni in the matter of In Re: Lehman Brothers
5 Holdings Inc., et al., in the United States Bankruptcy
6 Court Southern District of New York, case number
7 08-13555 SCC. Today's date is November 17, 2015 and the
8 time is 2:27 p.m. The videographer today is Wendy
9 Viner. This video deposition is taking place at
10 Hogan Lovells, 50 Holborn Viaduct, London EC1, UK.
11 Counsel would you identify yourself and state how
12 represent.

13 MR. JOHNSON: Shane Johnson from Hogan Lovells for
14 Dr. Thomas Marsoner.

15 MR. VAN TOL: Pieter Van Tol from Hogan Lovells for
16 Dr. Thomas Marsoner.

17 MS. ALVAREZ: Denise Alvarez from Weil, Gotshal & Manges,
18 for Lehman brothers Holdings Inc. and Lehman Commercial
19 Paper Inc.

20 MR. HORWITZ: Maurice Horwitz from Weil, Gotshal & Manges
21 for Lehman Brothers Holdings Inc. and Lehman Commercial
22 Paper Inc.

23 THE VIDEOGRAPHER: Thank you. Can I ask the notary to swear
24 in the witness and we can begin.

25

1 RUGGERO MAGNONI

2 having been SWORN testified as follows:

3 BY MR. JOHNSON:

4 Q. Mr. Magnoni, thank you for appearing here today.

5 I just wanted to give you a brief overview of what we
6 are going to be doing today. I am going to be asking
7 you some questions and then the attorneys for Lehman
8 Brothers will have the opportunity to ask you some
9 questions. If at some point you don't understand one of
10 the questions, please say so and we will repeat the
11 question, or possibly rephrase it. If you hear either
12 side make an objection to form, you can still answer the
13 question that you have been asked. Do you understand
14 these instructions?

15 A. I do.

16 Q. Okay, excellent.

17 A. Let's see how it works.

18 Q. So I wanted to start with your work history. When
19 did you begin working at Lehman Brothers?

20 A. February 1977 and I continued there until the last
21 day, which I think was September 15, 2008. So 35 years.
22 My only job. And then I continued with Nomura from 2008
23 to 2013, becoming senior adviser afterwards, but I was
24 chairman of investment banking division, EMEA, which is
25 European, Middle East and Africa, for Nomura during

1 those years. I started from the bottom as an associate
2 out of business school in Columbia in 1977, Columbia
3 Business School, and made, you know, up to managing
4 director about ten years later, and then I was appointed
5 as vice chairman of Inc. and vice chairman of
6 International Europe, which were our two operating
7 units, the broker dealers of the group, about around
8 2000 and where about, immediately after. So it is my
9 pride to tell the truth about Lehman Brothers, which is
10 my passion in life, has been my career, my everything.

11 Q. And you said you became vice chairman in 2000?

12 A. I can't remember exactly. I think it was the end
13 of, yes, I think it was around 2000. 1999/2000.

14 Q. And you continued in that role until --

15 A. To the last day. I was vice chairman of both, of
16 Inc. and Europe.

17 Q. Can are we please look at Exhibit 1, the Lehman
18 Brothers 2007 report. Do you see in the bottom
19 right-hand corner it says Marsoner and then there is
20 a number?

21 A. Yes.

22 Q. Please turn to 606.

23 A. 606 is where, I am there, my picture and everything
24 is what you want? Okay, what did you say, 6?

25 Q. 606.

1 A. Right, yes, that is me. There is no picture here.
2 That is me, Ruggero Magnoni.

3 Q. Do you see your name listed under the column that
4 says "other officers"?

5 A. Yes.

6 Q. And is that because you were an officer of Lehman
7 Brothers Holdings Inc.?

8 A. And Europe.

9 Q. And Europe?

10 A. I would say.

11 Q. Okay.

12 A. International, IE. So I was the only one with
13 both, with both titles --

14 Q. Okay.

15 A. -- in the firm. I also had been member of the
16 chairman's strategic committee for a number of years,
17 for Dick, Dick Fuld, and I have a very strong personal
18 relationship, and I was the only European asked to serve
19 in his strategic committee for a number of years. So
20 I had to fly every month to New York for his meetings,
21 where we would consider what to do with the group,
22 until, I would say, it then stopped, I think 2006 it
23 stopped. But it went on for a number of years. So much
24 so I was thinking about buying a flat in New York
25 because I was there every month.

1 Q. Okay. And could I actually ask you to turn back to
2 that page.

3 A. Yes, please.

4 Q. Could you identify the people on this list that you
5 regularly worked with?

6 A. Well, regularly meaning, well, Dick Fuld was my
7 close friend. But all of them, Jasjit Bhattal was the
8 head of Asia. Erin M Callan, not much, but
9 Scott Freidheim is one of my close friends. Dave
10 Goldfarb I worked for, Dave was my boss because I became
11 head of principal investments, the firm's principal
12 investment in Europe, and I was chairman of Italy and
13 I was the most senior banker in the roster. But they
14 asked me to do all sorts of things and I, as long as
15 I didn't have to manage anybody I was free to do what
16 I wanted. I did comply, because I loved it.

17 In Europe I basically reported, at the end,
18 I reported directly to the chairman and COO of Europe.
19 Jeremy Isaacs was my closest friend, he still is. Who
20 else do you want to know. I knew everyone here, Herb
21 McDade, Skip McGee was my partner, head of banking.
22 Andrew Morton I knew very well. Tom Russo I knew very
23 well, that was your senior lawyer and a colleague of
24 yours, one of the most accomplished corporate lawyers in
25 Wall Street. George Walker I didn't know too well, he

1 joined us late. Howard Clark, we went back, those many
2 years. Les Fabuss was one brotherly friend.
3 Stu Francis, as well, Fred Frank, all of those guys,
4 this was my, we grew up together.

5 Q. Okay.

6 A. I spent 35 years there. Felix Robotyn he came
7 from, these were -- Peter Sherratt, we had offices
8 close, one to the other, up on the top floor of Lehmans.
9 No, this was my firm.

10 Q. Sure, okay. We have talked about this a little,
11 but what were your day-to-day responsibilities at Lehman
12 Brothers?

13 A. It moved, right, over the years. Obviously it
14 depends on the years you were focusing on. In
15 1999/2000, for example, I organized the largest, still
16 today, take over deal in Europe. It was the Telecom
17 Italia old style by Olivette. With Vittorio Pignatti
18 I was the senior, and Vittorio was my invaluable
19 partner, and we built the most incredible deal that was
20 ever made. And still today, it is the largest old style
21 cash deal ever done in Europe. And we were really the
22 driving, driver's seat. We had other banks following
23 us, but we did the deal.

24 So what happened in 1999, we did the deal in early
25 1999 and it took me -- I was based in London, because

1 I had been the head of banking, together with one other
2 partner of mine, and before with another guy, I was in
3 charge of the coverage bankers, and I ended up taking
4 full responsibility for the deal, which was 70 billion,
5 or USD 80 billion at that time, which we financed almost
6 fully on debt. So it was a huge transaction, where
7 Lehman made a fortune.

8 So I had to stay on, because it was so important to
9 the firm. So I went back to Italy, basically to man
10 that business. So at the end of that, Dick and Jeremy
11 asked me to become more involved with the principal
12 investment side, and merchant banking and I became the
13 head of principal and merchant banking for Europe. So
14 I moved out of banking and I kept a title of chairman of
15 Italy, because obviously I was the most visible member
16 of the firm in that part of the world. So it went on
17 for a number of years back here in London, overseeing
18 our merchant banking activity and direct investment, so
19 that is where the Kirch Media investment and all of
20 these spin offs arrived. We can talk about that if you
21 want me to open, or wait for the questions.

22 Q. Sure.

23 A. I am not sure, you please guide me a bit, because
24 the history is very long and thick, so.

25 Q. Yes, absolutely.

1 A. We can spend a long time here on, kind of, not
2 necessarily very relevant.

3 Q. Absolutely.

4 A. So guide me a bit, because I can stay here for
5 months.

6 Q. Okay, excellent. We will get to that, definitely.

7 A. So you asked me in what capacity I operated at
8 Lehman in Europe.

9 Q. Right.

10 A. Basically on a factotum basis I was in charge of
11 private, private investment. I am sorry, on the
12 merchant bank. I was asked to come up with deals ideas.

13 Q. Okay.

14 A. For the firm, and at the same time Dick would ask
15 me to come and join the strategic committee once a month
16 to think about potential expansion opportunities for the
17 firm. I am talking early 2000, where we were very
18 ambitiously looking at growing the business. So I was
19 doing a bit of everything. And Italy, major calls to --
20 the time Berlusconi was there I knew him very well from
21 previous deals we had done with him, many years before,
22 so I took Dick Fuld and Jeremy there to familiarize
23 themselves with a member of the G7 very friendly to us,
24 and we did an enormous amount of deals with the Italian
25 government at that time. We were the largest

1 derivatives counter-party of the Republic of Italy for
2 a number of years. I can give you details if you want,
3 but it was very well known in the market. There was one
4 particular deal where we were counter-party to
5 34 billion Euros inflation swap to the Republic of
6 Italy, single counter-party. Which was on when we went
7 under and it created a huge problem in unwinding it,
8 because it was so huge. So we were the dominant
9 international bank in Italy. We were very active in
10 Europe, and very profitable I must say. And we were
11 also very active on the principal side, where we made
12 several very successful investments for the firm and for
13 the fund, for the Lehman Brothers merchant banking fund
14 which became Trilantic afterwards.

15 Q. Okay.

16 A. Over the years. So I was doing a bit of
17 everything. I was the ambassador, also, of the firm in
18 continental into Europe, because I was the most visible
19 banker and I was written up front page of Business Week
20 and I was asked to give interviews to Bloomberg TV, so
21 I was kind of a very enthusiastically being all over the
22 place. And I loved it.

23 Q. Excellent.

24 A. I must say.

25 Q. And do you know Dr. Thomas Marsoner?

1 A. Unfortunately, yes. No, no, yes of course. Thomas
2 is, Thomas joined us from Solomon Brothers when I was
3 running the firm. I was one of the senior guys in
4 banking. As I say, the firm was really the banking
5 division in the 90s. We realized we didn't have enough
6 of a grip on the financial institutions industry and
7 Soloman Brothers instead was very good, and so Soloman
8 Brothers was not doing too well in Europe but they had
9 a very strong, FIC group. We call them FIC, financial
10 institutions. So we decided to make a bid for the
11 group, which was led by an Italian. And the number two
12 deputy, and extremely intellectual partner, was
13 Dr. Thomas Marsoner.

14 We have lost him. No incoming video, is that okay?
15 Can we go on without him, or not?

16 MS. ALVAREZ: Shall we go off the record?

17 MR. JOHNSON: Maybe go off the record for a couple of
18 minutes.

19 THE VIDEOGRAPHER: We are going off the record, the time is
20 2:43 p.m.

21 (2:43 p.m.)

22 (Break taken.)

23 (2:44 p.m.)

24 THE VIDEOGRAPHER: We are back on the record. The time is
25 2:44 p.m.

1 BY MR. JOHNSON:

2 Q. Okay, I had asked you about Dr. Thomas Marsoner,
3 and you were --

4 A. So Thomas joined us, I can't remember the year,
5 together with Bruno Gabriele, who was his very, very
6 close partner and friend, who unfortunately died when he
7 was the head of banking for Lehmans in a car accident
8 going back home after a long late meeting. So they
9 joined us and became an integral part of our business.
10 So we built a very active business in FIC, because we
11 were very strong in fixed income. And most of the fixed
12 income clients were banks, or insurance companies, which
13 we didn't know that well at the decision making level,
14 so they added to it, and made an incredible impact on
15 our business since they joined in the early 1990, if
16 I well remember. 90 -- I can't remember. So we
17 basically worked together on some accounts. He added
18 particular, Thomas, in addition to Switzerland, Austria
19 and Germany, which were his natural part, there was also
20 UniCredit. UniCredit is an Italian bank, one of the
21 largest in Europe, bought Hypovereinsbank, a German, the
22 second or third largest German bank, and Thomas knew a
23 lot of the people there both at UniCredit and at Hypo.
24 So we worked together also on the coverage of this large
25 Italian bank. So Thomas --

1 THE COURT REPORTER: Sorry can you pause for a bit.

2 A. Yes.

3 THE COURT REPORTER: No carry on.

4 A. So yes, of course I knew he was one of the senior
5 managing directors in our group as long as he stayed.

6 THE COURT REPORTER: Sorry, I am having technical problems.
7 I don't know why.

8 A. Because I am talking too much?

9 THE COURT REPORTER: Not at all.

10 MR. VAN TOL: You've broken the machine.

11 A. Right. I can break -- don't ask my wife.

12 MR. JOHNSON: Shall we go off the record?

13 THE VIDEOGRAPHER: We are going off the record. The time is
14 2:48 p.m.

15 (2:48 p.m.)

16 (Break taken.)

17 (2:49 p.m.)

18 THE VIDEOGRAPHER: We are back on the record. The time is
19 2:49 p.m.

20 A. So Thomas was one of the smartest of our partners,
21 and one of the most creative and we had obviously, the
22 guy is so smart, so intelligent, that -- he is far more
23 intelligent than me -- I needed to spend some time to
24 understand what he was, you know, telling us, because it
25 was always very deep. While his partner, Bruno, was

1 very much like me, a commercial person, very bright,
2 very quick on his feet, so they made an incredible
3 couple, and they had about 20 people below them and
4 made, I think, the most interesting FIC group in the
5 City. So that is how I came to know Thomas.

6 BY MR. JOHNSON:

7 Q. Okay. Did he later serve as an adviser to Lehman
8 Brothers?

9 A. Er, yes. Well, there is a long, again, I will try
10 to make it short. But Thomas' family was in the beer
11 industry in Tirol in Innsbruck, actually, for,
12 I understand, many generations. And his father, whom
13 I met at that time, there was a point when Thomas
14 decided to go back to Austria, attend a bit to the
15 business of the family and his own family; he is
16 married. So what happened, we came up with an idea,
17 Thomas and I, to try to, and Vittorio, to try and buy
18 out all of the other shareholders in the beer business
19 of the family, which was listed in Innsbruck, and
20 Lehman, me being the principal investor, representing,
21 and Vittorio being the M&A banker, at that time was the
22 head of M&A, we came up with a proposal and it wasn't
23 accepted, because I think Heineken or one of those big
24 guys came in and paid more than us. So I reconnected
25 with Thomas when he left because he was an adviser to

1 Lehmans, and we were trying to do deals together. Which
2 I understand, then he went on and on, doing other
3 transactions with. And that must have been the early
4 2000s, when I was really running and merchant bank,
5 private investment and merchant bank.

6 Q. Are you aware that he had advisory agreements with
7 Lehman Brothers?

8 A. Of course. He was one of the few. We never wanted
9 to let the good guys go, but he wanted to go back, so we
10 invested so much time with him and he was a friend and
11 a capable partner. We wouldn't have ever let that
12 talent go anywhere else if he wanted to stay in the
13 business. So yes he was one of our very few internal
14 early retirement type of advisers.

15 Q. And you may have partly answered this next
16 question, but to your understanding why did Lehman
17 Brothers want to hire Dr. Marsoner as a senior adviser?

18 A. Because we didn't want him to leave, and he left
19 for his own personal reason, and we, you know, made sure
20 that he stayed. It cost us a fortune to get him, the
21 whole Solomon Brothers team, we had to buy them. We
22 valued Thomas enormously.

23 Q. And you mentioned Thomas had expertise in
24 Switzerland, Austria?

25 A. German speaking countries and Czechoslovakia, some

1 of those place where being a German speaker helps, so
2 the whole Aus-Hungarian empire is large, and Germany,
3 and Switzerland of course.

4 Q. Did his expertise include F1?

5 MS. ALVAREZ: Objection to form. You can answer.

6 A. Okay.

7 Q. You can still answer.

8 A. He is not an expert, he is a maniac, he is
9 a Formula 1 maniac. The guy is, knew everything.
10 I mean, he could, he would go to all of the Grand Prix
11 and I remember, he went to Monte Carlo, I went with
12 Johann Rupert, who was the owner of Rothmans, one of the
13 big sponsors, and I have been to Monza with him, et
14 cetera. And he went there with his very, I think he was
15 still not married, with Veronica, and he was dragging
16 her to see that thing and the other; couldn't give
17 a damn. We were with Sylvester Stallone, and the usual
18 type of people that come to those places and having
19 a lot of fun. He was totally focused on the technology,
20 Mercedes, and Ferrari, we were admitted to the pits and
21 he really knew more than any of us.

22 I have to tell you how we come across the Formula 1,
23 because I am a bit of a car fanatic myself, but not as
24 much as Thomas. And we have some petrol head friends,
25 like Johann Rupert, who has a collection for 420 old

1 cars in South Africa.

2 Any way, I was responsible for a loan to Kirch,
3 Kirch Media. I pushed the firm to invest with
4 Berlusconi's Mediaset and Murdoch's Sky and I think
5 Prince Waleed, but I can't remember if Prince Waleed was
6 in too, to save Kirch from what happened next any way.
7 So we weren't too good. I was actually, it was a step
8 back in my otherwise pretty successful career and the
9 firm underwrote USD 500 million. Obviously at that time
10 it was me preparing the papers for the commitments
11 committee and then basically going around everyone and
12 talk to Dick and tell him Dick, this is a great deal.
13 Let's do it. I mean I want your support, it is a bit
14 scary but we will make a lot of money. So we didn't.
15 So Kirch went bust about a year and a half after we put
16 together the loan. And we inherited what the, the
17 pieces of the companies that Kirch Holding Company,
18 which we lent money to, had in its belly. So we had
19 a bit of Premiere, the pay TV, a bit of the commercial
20 TV, a bit of Axel Springer who was the publisher there,
21 and a bit of the Formula 1, which Kirch had basically
22 strangled itself and bought control of I would say
23 a year before, two years before, and it couldn't really
24 refinance. So we found ourselves with all of this pot
25 pourri of German participation, and basically my role of

1 originator of that investment ended there because Dick
2 and Jeremy, after a while, let's say the following year,
3 called me up and said Ruggero, it is much more valuable
4 in finding new deals than in sitting on the busted loan.
5 So we will use you or get you involved whenever we need,
6 but please pass it on to Sherratt and the loan recovery
7 group, if you want, and we will use you obviously as
8 a very senior guy in the firm. You will have a view,
9 you will have a voice, but don't be day to day involved.
10 Because until then I was going every week to Munich and
11 sitting down with the lawyers, with a judge, and the
12 staff, and with Patrick Schmitz-Morkramer, who was one
13 of my Associates and I brought him in. And then
14 obviously I stepped out a bit of the day to day, so
15 Peter Sherratt and what is his name, my great friend in
16 the States who then became the head of -- guys, I am
17 getting old. He was a friend of Thomas. You will come
18 to him.

19 Q. Okay. So what time period are we talking about?

20 A. From, I think we made the loan, you have to help me
21 with the dates, because as I told you, I haven't --
22 I think we made the loan in 2001. I think we went bust
23 in 2002, late 2002. I remember 2003, we bought
24 10 percent of Ferrari, me and Vittorio, and we continued
25 doing deals. So I kept on the Formula 1, with the firm,

1 bought 10 percent, or 8 percent of Ferrari. Formula 1
2 was very much, and we already had, I think, inherited
3 our share of the security, that famous 15 percent of
4 Formula 1, which is, the remainder of which you still
5 have in the Lehman estate. We were all very interested
6 in seeing that growing because it was the most valuable
7 of the assets of the Kirch group.

8 Q. And did CVC Capital Partners become involved in F1?

9 A. Yes. They bought, I think it was 2005, -- well
10 I started with all of the Germans. There was an idiot
11 and a crook at Bayerische Landesbank. The crook got
12 caught and the idiot was the chairman, called Schmidt if
13 I well remember. And these guys were playing their
14 stupid local game instead of trying to maximize the
15 business. As you know, afterwards the crook was caught
16 and he is still in jail, I think, the guy who
17 facilitated the cheap sale to CVC. He was corrupted by
18 Bernie, and, you know the story, right. It was in all
19 of the papers. Bernie has been accused of paying
20 50 million Euros to this Martin, you will have the name,
21 he was the Polish sounding name of the officer who was
22 on the board of Fiat.

23 Q. Okay.

24 A. When Bayerische owned the majority stake and he was
25 the guy who Bernie bribed, and he accepted that version,

1 maybe not in those words, but he was the guy bribed for
2 Bayerische to sell the control to CVC. Which was the
3 point where we said no, we are not going to sell, that
4 was a low price, so much so that Bernie bribed that guy
5 to sell it back it himself; CVC and Bambino. And
6 JP Morgan, unfortunately for them, fell in the trap and
7 sold themselves. Remember, in the bank it is not that
8 easy, yes. We had a loan which became an equity
9 investment. But it was still in the bad loan category
10 type recovery. When it was offered to sell at a cheap
11 price, we would have recovered part of our loan.
12 I think it was 150 million. The part of the principal
13 that we would have gotten back, or a bit more.
14 Remember, we had 500 invested in Kirch. So we were
15 going to be -- we already pulled 300 away, but it was
16 a total final loss, because all of the other pieces were
17 kind of worthless. The only piece left of the Kirch
18 media venture was Formula 1.

19 So it was very important, that particular decision.
20 And JP Morgan decided to accept and we didn't. And that
21 went through a lot of loops. Because it was not obvious
22 that we were better off holding that stake or to sell
23 it. That is where I was called into say what I thought
24 at the highest level of the firm, I think by Jeremy or
25 Dick, and honestly, I didn't have a few. I don't have

1 a view and I know that a lot of people at the firm
2 wanted to just sell and get rid of it. It was also the
3 years where we were making truck loads of money so
4 losing 300, having already put them in the books, kind
5 of, in a firm that was making billions, was not very
6 important. So I know this as being a very pointed
7 discussion. Tom Bernard was the person I wanted to tell
8 you before.

9 Q. Okay.

10 A. Tom was really the arbiter in the end of what to
11 do, because he was a very senior guy. He had been the
12 head of credit at the firm. He was retiring, I think in
13 the Rocky Mountains, if I remember, to stay with a kid
14 that wasn't well or something. There was some family
15 reason why. And the firm basically, like with Thomas,
16 said please stay on, even if you are in Aspen, or
17 whatever, Sand Valley, I don't know where it was.
18 Please, stay on, follow some of the difficult deals that
19 we have inherited for the bank, because you know the
20 history, you are the top, senior guy in the firm, stay
21 with us, don't disappear. And from there, I think,
22 I remember calls to the Rockies, and he was formulating a
23 vision of whether to hold or sell. And thank God he
24 decided not to sell, I understand by leaning a lot
25 Thomas' vision, which was the only completely in favor

1 vision within the firm because I wasn't sure what was
2 good to do. I don't know if you asked Patrick
3 Schmitz-Morkramer, he was involved. I don't think any
4 of us were sure what was better for the firm. There was
5 this maniac called Thomas Marsoner who called everyone
6 saying "no, we can't sell, this is going to be the best
7 thing in the world. We can't sell it." I know that
8 there was a threat at that point that the famous
9 Concorde agreement, which was the pact between Ferrari
10 and the other major squads, the teams, and Bernie, who
11 was a very peculiar character, I must say, I know him
12 very well.

13 Q. You are talking about Bernie Ecclestone?

14 A. Yes.

15 Q. Okay.

16 A. Very peculiar, very strange bird. And, you know,
17 you can't trust him, 100 percent, or 50 percent. You
18 really have to have your own opinion. The basic reason,
19 I am really telling you guys because I am strong on it,
20 the thing could have been worth zero or a lot and it
21 depended at that moment on whether the Goldman led
22 group, which was called GPW, Grand Prix World or
23 whatever, was an association of the smaller teams, which
24 excluded Ferrari, which by the way, Ferrari is like 50
25 percent of Formula 1, Luca di Montezemolo, an old friend

1 of mine, had agreed to stay with Bernie. The point was
2 what the others would do, because you can't race against
3 yourself; by definition, race meaning having opponents.

4 McLaren was the strongest team at that time and it
5 had just won the championship, they had a great engine,
6 da, da, da. So critical was to assert whether McLaren
7 was going to stay with Bernie or go with the splinter
8 group. I don't know. And I understand Thomas went to
9 war on that. And he turned what was a widespread
10 skepticism by many of the senior guys into the very bold
11 decision by Bernard, which I think must have consulted
12 Dick, it must have told him look, there is a chance of
13 making 10 times, or losing 300 million, what would you
14 go? Because that was the type of bet. We didn't know
15 ten times, but there is a way to make a lot more, or,
16 you know, basically crystallize a bad loan, Ruggero's
17 bad loan; mine.

18 So I heard back that that was going on and actually
19 I was asked what I thought and I said I didn't really
20 know which way to go. And I know that that decision,
21 2005, was very, I would call it fatale, very important,
22 and not obvious. So that is, that answers your
23 question?

24 Q. Yes, thank you.

25 A. You didn't want me to say, why were you against?

1 Q. No, no, that is okay.

2 A. You tell me later.

3 Q. And how did Dr. Marsoner become involved in the
4 discussion that you were talking about?

5 A. He was always involved in Formula 1. We spoke
6 Formula 1 every other week, all of us. Anybody who was
7 involved in Formula 1 received calls from this maniac,
8 Thomas, who would just, you know, tell you what Niki
9 Lauda said, what the other guy said, and, you know, he
10 knew things that none of us knew because I think his
11 uncle or his father were friends with Jochen Rindt,
12 which was one of my heroes when I was a kid because he
13 was a Ferrari driver, Austrian, and Niki, obviously, won
14 everything with Ferrari, I don't know whether you
15 watched the movie.

16 Q. What movie?

17 A. The movie of Formula 1, Niki Lauda against
18 Alain Prost.

19 Q. I do know that movie. I have --

20 A. Last year's movie, fantastic, if you like that, it
21 is a great movie.

22 So I think Thomas had some way to get behind the
23 scenes and understand what was going on.

24 Q. Okay.

25 A. Much more than us. Because the Americans don't

1 know Formula 1.

2 MR. VAN TOL: No we don't.

3 A. It is only the Europeans who know, and among the
4 Europeans, nobody, Vittorio doesn't even know what car,
5 I don't think he has ever been to Formula 1. So
6 basically you have to have the passion, and Thomas has
7 it in huge quantities.

8 Q. So people asked him for his advice at this point?

9 MS. ALVAREZ: Objection to form.

10 A. He would call and be sure that he was involved in
11 what was happening. He would call, ask me, ask Patrick,
12 understand what was going on. He would volunteer points
13 of view. He would send emails. But he had a very close
14 relationship with Vittorio, because Vittorio hired him
15 as advisers on a couple of very successful deals.
16 I think one was an Austrian bank and the other was
17 called BAWAG, and the other was a Czech broadcaster,
18 actually the tower, yes, broadcaster, the guys who
19 actually reproduce the waves, not the actual television.
20 It is a tower company in Czechoslovakia, I think, which
21 I believe Thomas was very involved in. And they worked
22 together all of the time. We never had a strong German
23 business at Lehmans. It was actually our failure, not
24 having developed a proper business in Germany like we
25 had in Italy, for sure. France, to a large extent, and

1 Spain to a smaller extent, or Benelux, or Scandinavia,
2 Germany. The truth is that Thomas acted as our senior
3 German speaking and very well plugged in partner, even
4 if he wasn't any more a member of the firm to speak of.

5 Q. And you mentioned the Concorde agreement and
6 McLaren information that Dr. Marsoner provided?

7 MS. ALVAREZ: Objection to form.

8 A. Yes.

9 Q. In your view was this valuable information?

10 MS. ALVAREZ: Objection to form.

11 A. Okay, I think I said before, and I wanted to say
12 very clear, without Thomas I doubt the firm would have
13 stayed into Formula 1. That is my impression, I don't
14 have any, how would you call it, evidence. But the
15 level of understanding of Formula 1 was so feeble at the
16 firm, because the Americans didn't know Formula 1. The
17 Europeans here were just only mildly interested. It was
18 Thomas banging on everybody's doors to tell them what
19 was going to happen with McLaren and I remember I was
20 involved in that discussion. Again, I didn't have
21 a strong opinion either way, but I know Thomas called
22 everyone from Jeremy down in Europe to make sure that we
23 would consider very, very seriously CVC's proposal as
24 being totally inadequate.

25 Q. And at this point were people across different

1 Lehman entities involved in the F1?

2 MS. ALVAREZ: Objection to form.

3 A. I can't remember. Because we acted as one, you
4 know. Entities didn't make any sense to us, you know,
5 Commercial Paper, or, you know, I was vice chairman of
6 the group. Period. So I couldn't really remember who
7 booked what, where. Remember, we were a fraternity of
8 partners working like, really, a pack to go out and get
9 things done and in the best interests of the firm.
10 I don't know who was where in the structure. I couldn't
11 care less, to tell you the truth.

12 Q. Right.

13 A. There was one boss. An executive committee. And
14 we were all involved in creating value for our
15 shareholders and for ourselves.

16 Q. And did the F1 investment end up being profitable?

17 MS. ALVAREZ: Objection to form.

18 A. So let us go back a second. So we transformed
19 a busted loan, because that is what it was, Kirch Media
20 couldn't pay back its loans into securities. The others
21 were worthless because the companies below, ProSieben,
22 Premiere, needed more money and the firm wasn't willing,
23 that is why I am saying Formula 1, if it wasn't for
24 Thomas, probably we would not have kept it, because in
25 both cases, ProSieben, which is worth a fortune now and

1 is the most successful private broadcaster in Germany,
2 and Premiere, which is Sky, were both calling for
3 capital increases, rights offerings. And the firm
4 didn't want to participate, against my strong advice.
5 Because I wanted to and just, they told me, look, you
6 already lost 500 million, would you please not knock at
7 our door. Go out and make money and try to clean your
8 reputation up, right. Dick used to call me and say
9 "Ruggero, I know you are down, but I have lost much more
10 money than you in my life and if you don't lose money
11 you are never going to make money". Yes, but I feel
12 terrible. He said "go, just make more money for us".
13 It was a stain in my curriculum. I saw the firm not
14 willing, not being willing to follow me on all of these
15 recovery roads. And Peter Sherratt, who is a friend and
16 a very -- I have lots of time for him, was really very
17 conservative, and basically was saying let us cut, let's
18 cut our losses and go home. So nobody really wanted to
19 double up on the pieces that we had received from
20 Kirch's busted loan. That is why I am saying that
21 I don't think that we would have kept Formula 1 if
22 JP Morgan, whom we thought knew more than us, and
23 generally they did as a team, knew more, if it wasn't
24 for Thomas and I think Patrick, also, Schmitz-Morkramer,
25 who was young but very smart, and people thought he was,

1 so there was a strong opinion by those two that we
2 shouldn't sell. So is it profitable? I think it is
3 a profitable investment. I don't know exactly when we
4 are going to get out -- we meaning the Lehman estate --

5 THE COURT REPORTER: Sorry, could you repeat that?

6 A. Whatever has been paid so far and I know because
7 Ferrari, I know all of the guys, I am close friend of
8 the Mercedes guys, and I was very close to the former
9 chairman of and COO of Mercedes, still appear am, but he
10 is former, he is not any more, Jurgen Schrempp, and I am
11 a close, not as close friend as Jurgen Schrempp, very
12 close, a personal friend, and his successor, Dieter
13 Zetsche, who I know very well, and I am the chairman of
14 the Italian chapter of the foundation called Laureus,
15 who is jointly financed by Daimler and Richemont, which
16 I am on the board of. So any way, that gives me -- so
17 I knew, and I have always been close to Laureus so
18 I know how important it is for Mercedes so I know how
19 much the business creates. And in the years I maintain
20 a good relationship with Bernie because Bernie called me
21 several times in the last few years to see whether
22 I could find a buyer of the CVC stake. So I went back
23 to see, you know, the murder scene and I know how much
24 they make, so it is a profitable venture, for sure.

25 Q. Okay. I wanted to go back to the advisory

1 agreements, Thomas' advisory agreements. You said you
2 were aware of them.

3 A. I was aware that Thomas had been retained by my
4 friend Vittorio, who was a very important person in our
5 firm from 2003. So let me tell you again, because you
6 have to understand. Telecom Italia, we helped to buy
7 Telecom Italia in 1999. In 2001, our man, our guy,
8 Colannino, was booted out by Pirelli and Benetton. We
9 stopped being the bankers to Telecom Italia. And that
10 freed me and Vittorio from a very profitable day to day
11 job, because it was one of the most active M&A clients
12 in the firm. So Vittorio moved back to London, I moved
13 back to London to do, me principal, he M&A. Okay.
14 Germany being our weak point, I knew, and we discussed
15 it with Vittorio, that he wanted to maintain Thomas on
16 board as an adviser. I haven't seen the papers,
17 because, you know, that was his responsibility, but
18 I knew that Thomas continued as our adviser across the
19 board.

20 Q. Do you know how he was paid under those agreements?

21 A. We had a standard deal with our advisers.

22 Q. Okay.

23 A. Which would, may, vary in the proportion, in the
24 share. But it was always if you are a success, we will
25 give you part of what we make. And usually, because

1 I knew afterwards, that was about 10 percent of banking
2 or 20 percent of banking or 10 percent of the firm's,
3 was what normally was given to advisers. It was given
4 to me, too, afterwards.

5 Q. Okay.

6 A. So that is a kind of a standard --

7 Q. Okay.

8 A. -- piece of paper. But no, I have not seen his
9 actual engagement.

10 Q. Okay. Now, are you receiving anything from
11 Dr. Marsoner in exchange for this deposition here today?

12 A. You are offending me. You are kidding, right? No,
13 the answer is no, and I would never have done anything
14 of that type.

15 Q. Why are you providing testimony today?

16 A. Because he asked me to say the truth. He wrote me
17 about two years ago. He asked me about two years ago to
18 say what I knew. And Vittorio also, you know, Vittorio
19 and I are very close friends, really very close. And he
20 told me to say if I knew that what he was saying was
21 true, which I did at that time, in 2004, I think. And
22 then 2015, I was asked to say more clearly, and I did.

23 Q. Okay. Could we hand Mr. Magnoni exhibit 6, please.

24 MS. ALVAREZ: From which deposition?

25 MR. JOHNSON: The first one.

1 A. Do you want me to read it?

2 MR. JOHNSON: No, one second. I am waiting for them to get
3 a copy.

4 A. I am sorry.

5 BY MR. JOHNSON:

6 Q. Would you turn to the fourth page, please.

7 A. Yes.

8 Q. Do you see you are looking at the supplemental
9 declaration --

10 A. Yes, yes, yes.

11 Q. -- of Dr. Marsoner, and this is your letter
12 submitted to the court, is that correct?

13 A. Indeed, yes.

14 Q. And if you read the first sentence:

15 "I declare under penalty of perjury under the laws
16 of the United States of America that the foregoing is
17 true and correct."

18 Is that what it says?

19 A. Yes, yes, yes. Should I read it, or should I say
20 it again? Is it okay?

21 Q. No, you don't need to say it again.

22 A. Okay.

23 Q. Is everything in this letter true and correct?

24 A. It is.

25 MR. JOHNSON: Shall we take a ten minute break now.

1 MS. ALVAREZ: Sure.

2 THE VIDEOGRAPHER: We are going off the record. The time is

3 3:26 p.m.

4 (3:26 p.m.)

5 (Break taken.)

6 (3:43 p.m.)

7 THE VIDEOGRAPHER: We are back on the record. The time is

8 3:43 p.m.

9 MR. JOHNSON: I have no further questions, thank you

10 Mr. Magnoni.

11 BY MS. ALVAREZ:

12 Q. We do have some questions for you, Mr. Magnoni.

13 A. Please.

14 Q. Thank you again for making yourself available.

15 A. A pleasure.

16 Q. Before I get into the questions, I just want to
17 remind you if you don't understand a question or you
18 don't hear me clearly, just ask. I will repeat it. If
19 you answer a question I will assume that you understood
20 it, alright?

21 A. Yes.

22 Q. Alright. So we are going to mark our first exhibit
23 which is the notice of deposition.

24 (Exhibit Magnoni 1 marked for identification)

25 A. Should I read this?

1 Q. Sure, if you you can take a brief look at it. Have
2 you seen this before?

3 A. I can't remember, I don't remember.

4 Q. Okay. This is the notice of deposition.

5 A. Should I have received this. I can't remember.

6 Q. You probably did receive it, we are hoping you
7 received it, but you are here so it is okay.

8 A. Mm-hm.

9 Q. It is Lehman's notice of deposition to inform you
10 that we have some questions.

11 A. I understand.

12 Q. The last line states that we expect to question you
13 for about 3 hours. We are hoping it should be less?

14 A. I am here for you.

15 Q. Okay. In the beginning of the deposition you told
16 us about your long history at Lehman Brothers. One
17 point I wanted to clarify with you. If you could take
18 a look at what was exhibit 1 to Sherratt deposition that
19 was shown to you. If you could turn back to the page
20 you were looking at.

21 A. 606.

22 Q. Yes, good memory. 606. You can look back where
23 you are listed as "other officer"?

24 A. Yes.

25 Q. You see it says:

1 "Vice chairman of Lehman Brothers Inc..."

2 Correct?

3 A. Yes.

4 Q. And then it says:

5 "... and Lehman Brothers International Europe."

6 A. Yes.

7 Q. Okay. So when you said that you were vice chairman
8 of Inc. earlier, were you referring to Lehman Brothers
9 Inc.?

10 A. Yes.

11 Q. Okay. Thank you.

12 A. That was the colloquial way we differentiated
13 between New York, and international was London.

14 Q. Did you hold a board position at Lehman Brothers?

15 A. No. Of the holding company, you are saying?

16 Q. We will break it up, then. You did not hold
17 a board position at Lehman Brothers Holdings Inc.?

18 A. No.

19 Q. Did you hold a board position anywhere else?

20 A. I think in Europe.

21 Q. Okay.

22 A. And I am not sure, the vice chairman of Inc.,
23 I cannot remember if it also meant -- I don't remember
24 signing papers through Inc., so I doubt it.

25 Q. Okay.

1 A. In Europe, there were two entities and I can't
2 remember now which one I was board member of.

3 Q. Okay.

4 A. Peter Sherratt will know, but I can't remember.

5 Q. Okay.

6 A. We had International Europe, and Europe LBIE and
7 LBE, I can't remember which one I was also a board
8 member of.

9 Q. Okay, that is okay. Thank you. What did you do to
10 prepare for this deposition today?

11 A. Not much.

12 Q. Did you meet with anybody?

13 A. No. I was told look at your history at Lehman
14 Brothers and I did already that when we, when I sent you
15 that note on what happened on the phone. I went back to
16 see what exactly was my position. That was January this
17 year, right. I haven't done much.

18 Q. Okay. You haven't sent me a note.

19 A. No, sorry, sent, what is it, the deposition, the
20 affidavit.

21 MR. JOHNSON: You are referring to the letter?

22 A. Letter, right. What is -- that is what, that was
23 the time when I went back and tried to remember what and
24 if and how. I haven't done much.

25 Q. Okay. Who sent you that, who asked you to go back

1 and look?

2 A. Thomas, I think, because he asked me to look at
3 what Vittorio had said and if I could confirm and I did,
4 right.

5 Q. Okay. Did you make any changes? Well, when you
6 say look at what Vittorio said, you looked at
7 Vittorio's --

8 A. Letter. I was asked to see whether I had found
9 that in accordance with my memory or not.

10 Q. Okay.

11 A. And I said yes.

12 Q. And then you signed the letter?

13 A. Yes.

14 Q. And did you have a conversation with Vittorio about
15 it?

16 A. Not recently. Maybe last year. But in between
17 things, like -- I don't think I have even called him to
18 ask, but I assume that last year, 2014, we might have
19 spoken about it.

20 Q. Okay. So when Dr. Marsoner sent you Vittorio's
21 letter, you didn't have a conversation with Vittorio at
22 that point?

23 A. I had a conversation with Vittorio on Formula 1.
24 Vittorio was asked to recall what happened, and if
25 Thomas was, I think, was, it was some time in 2014. So

1 then he called me, or we saw each other because we see
2 each other all of the time, we discussed that and I said
3 that is exactly what I remember.

4 Q. Okay.

5 A. And we didn't make a big fuss out of it.

6 Q. Okay. And did you speak -- what did you discuss
7 with Vittorio in 2014?

8 A. I can't -- it is exactly how you remember
9 Formula 1, because I told him that I went back to
10 Formula 1, that Bernie called me and I said you know, it
11 is a worth a lot of money. We went back and discussed
12 the history.

13 Q. Yes.

14 A. But we didn't really discuss much.

15 Q. Okay.

16 A. For us it was natural; Thomas was part of the team
17 of Formula 1 at that time.

18 Q. Okay. Did you go back and look at any documents?

19 A. No, I don't have any documents. Actually, I kind
20 of destroyed most of the stuff. I was kind of bitter
21 when the firm blew up. It was a total economic,
22 economically a disaster, but it was really for me,
23 I spent 35 years up until then. It was very sad.

24 Q. Mm-hm.

25 A. But then I had to rescue my guys. You know,

1 I brought 5,000 people into Nomura.

2 Q. Mm-hm.

3 A. And I gave up on my freedom, because it wasn't part
4 of banking and only banking was absorbed in Nomura, but
5 Christian Meissner called me and asked "would you come
6 back as a banker, because I need you for Nomura to be
7 convinced that we will be successful". So I spent a lot
8 of time in trying to make this work.

9 Q. And was 2014 the last time you spoke to Vittorio
10 Pignatti about Formula 1?

11 A. I can't tell you exactly, I don't know. But never,
12 it has never been an important item for us, so I might
13 have spoken with him about it, but never do you recall
14 this or the other, no.

15 Q. Have you --

16 A. I tried to give only a comment on what he wrote
17 about his recollection that Thomas was an adviser and he
18 had used him for other stuff, which was absolutely true.

19 Q. Have you spoken to Pignatti about Formula 1 within
20 the last week?

21 A. No.

22 Q. Okay. Last month?

23 A. No. I think last time was a year ago.

24 Q. Okay.

25 A. Or around January, if that was.

1 Q. Have you spoken --

2 A. When you say Formula 1, you are saying Formula 1
3 events of those years?

4 Q. Yes.

5 A. I don't think I even spoke to him about the recent.
6 Again, he doesn't care about Formula 1, for some reason.
7 He is not a petrol head, as we are.

8 Q. Okay.

9 A. He doesn't really care.

10 Q. Okay. Have you discussed with Dr. Marsoner
11 anything about the negotiations of his advisory services
12 agreement?

13 A. Never.

14 Q. Have you discussed with Dr. Marsoner whether he
15 ever requested payment from Lehman for Formula 1?

16 A. No.

17 Q. Have you discussed with Dr. Marsoner whether Lehman
18 ever agreed to pay him for Formula 1?

19 A. No. Because I wouldn't know. I was a bit out of
20 that loop.

21 Q. Okay.

22 A. I actually don't know if they agreed or didn't
23 agree. It would be natural if they agreed to, because
24 that was the way we managed the relationship with our
25 advisers. Everyone was on a small retainer and

1 a success fee.

2 Q. But at that point you were not in the, I think you
3 called it the asset recovery group?

4 A. No I was not.

5 Q. So you didn't know?

6 A. No.

7 MR. JOHNSON: Objection. Leading. I am going to make the
8 same objection you made to Mr. Pignatti's; you haven't
9 provided a foundation that Mr. Magnoni is a hostile
10 witness, and earlier on he testified he was
11 disinterested and in fact loved Lehman Brothers --

12 MS. ALVAREZ: That's right --

13 MR. JOHNSON: -- I believe were his words.

14 A. Sorry, can you say again, please Shane?

15 MS. ALVAREZ: The court reporter can read it back, actually,
16 so he can read you exactly what Shane said.

17 A. What is this, Shane, are you saying what Vittorio
18 said?

19 MR. JOHNSON: He will read you back exactly what I said.

20 A. Okay.

21 THE COURT REPORTER: "Objection. Leading. I am going to
22 make the same objection you made to Mr. Pignatti's; you
23 haven't provided a foundation that Mr. Magnoni is a
24 hostile witness, and earlier on he testified he loved
25 Lehman Brothers."

1 A. Who did testify he loved Lehman brothers? We all
2 loved Lehman Brothers.

3 MS. ALVAREZ: And we are going to take the same position
4 that we took in the prior deposition. Mr. Magnoni has
5 submitted a letter on behalf of Dr. Marsoner's claim so
6 in our view he is a hostile witness and in the end it
7 will be up to court to decide how to treat this.

8 MR. VAN TOL: This is Pieter Van Tol. Could you please tell
9 us what your foundation is for saying that Mr. Magnoni
10 is hostile to Lehman?

11 MS. ALVAREZ: I have already stated it. I think the court
12 reporter can read back what I said.

13 MR. VAN TOL: No, that wasn't the response to what I asked.
14 You need to establish a foundation to treat Mr. Magnoni
15 as a hostile witness, when he has already testified he
16 is disinterested as to Mr. Marsoner, is telling the
17 truth and has great affection for Lehman. He is the
18 antithesis of a hostile witness. And you haven't
19 established a foundation for that.

20 MS. ALVAREZ: Listen, he has also said other things that
21 will establish that he is a hostile witness, but we can
22 have this conversation and this argument in court. At
23 this point we can each reserve our position and move on
24 with the deposition.

25 MR. VAN TOL: That is fine, thank you.

1 MS. ALVAREZ: Can you reads back the previous question?

2 THE COURT REPORTER:

3 "Question: But at that point you were not in the,
4 I think you called it the asset recovery group?

5 "Answer: No I was not.

6 "Question: So you didn't know?

7 "Answer: No.

8 MR. JOHNSON: Objection. Leading."

9 MS. ALVAREZ: Okay.

10 A. Why is that making me hostile, saying no I wasn't?

11 Q. Mr. Magnoni --

12 A. Why am I hostile to you?

13 Q. -- you are very polite and very nice. It is a
14 legal term that we as lawyers will argue this in court.

15 A. I understand, fine. What I am telling you is the
16 truth. That is the most important thing, right?

17 Q. Yes.

18 A. Okay.

19 Q. I wanted to go back. You were talking about your
20 conversations with Dr. Marsoner. Did you ever discuss
21 the differences between the various Lehman entities with
22 Dr. Marsoner?

23 A. No.

24 Q. Okay. Have you discussed the --

25 A. For us, Lehman was one. Is that important for you,

1 whether it was one or the other? Any way, no, I did
2 not.

3 Q. Okay, thank you.

4 A. That is the answer.

5 Q. Thank you, I appreciate it. Did have you
6 a conversation with Mr. Pignatti about his negotiations
7 of the advisory services agreements?

8 MR. JOHNSON: Objection. Leading.

9 A. I don't know which ones are. No I did not talk to
10 Vittorio on anything.

11 Q. Okay.

12 A. About, what did you say?

13 Q. The advisory services agreements?

14 A. No.

15 Q. Okay. Did you talk to Vittorio about whether
16 Marsoner ever questioned requested payment for
17 Formula 1?

18 MR. JOHNSON: Objection. Leading.

19 A. No.

20 Q. Did you have a conversation with Pignatti about the
21 differences between the various Lehman entities?

22 MR. JOHNSON: Objection. Leading.

23 Q. You can answer the question.

24 A. No, I never spoke to Vittorio about any of that
25 stuff.

1 Q. Okay, that is fine. Have you searched any
2 document, for any documents related to Formula 1?

3 A. I don't have any document with me, no, I have
4 tombstones of the deals that we did with Kirch and that
5 is all.

6 Q. Mm-hm.

7 A. No, I haven't searched for anything.

8 Q. Has Doctor Marsoner asked you to search for
9 anything relating to Formula 1?

10 A. No.

11 Q. Okay. I would like to mark the following document
12 the letter he submitted to the court. We will mark this
13 as exhibit 2. Sorry, wrong letter.

14 A. That is Tom Bernard's.

15 (Exhibit Magnoni 2 marked for identification)

16 A. Is that mine?

17 MR. JOHNSON: I can't see it, you can take look at it.

18 BY MS. ALVAREZ:

19 Q. So we will mark this as exhibit 2 to the
20 deposition. We spoke a little earlier about this
21 letter.

22 A. Please.

23 Q. Did you draft it letter?

24 A. What do you mean?

25 Q. Did you prepare the letter yourself?

1 A. Yes.

2 Q. Okay. So Dr. Marsoner didn't send you a draft of
3 the letter?

4 MR. JOHNSON: Objection. Leading.

5 A. Not that I know of. They asked me to say what it
6 was. And I did.

7 Q. Okay. And then did you type this up?

8 A. My secretary, yes.

9 Q. Okay. And you dictated it to her?

10 A. I might have written it on a pad, as I usually do,
11 and given it to her to type.

12 Q. Okay. Let us mark the next exhibit, which is
13 labeled Marsoner 71 to 72. This will be Magnoni 3.
14 Okay. That is an email of Thomas Marsoner to Ruggero
15 Magnoni dated January 14, 2015 and Vittorio Pignatti is
16 CC'd on the letter.

17 (Exhibit Magnoni 3 marked for identification)

18 A. Right.

19 Q. And I will just read the text of the email for the
20 record:

21 "Having discovered along the way that I ought to
22 have a claim in the US for the services I provided,
23 I have decided to pursue a claim in respect of the LB/F1
24 matters. Though it will be a late filing, I believe
25 that I will be able to sustain a claim in the US,

1 primarily since no bar date notice has ever validly been
2 served upon me."

3 Do you see that?

4 A. Yes.

5 Q. Okay. So then the next paragraph states, or the
6 first sentence of the next paragraph:

7 "With reference to our discussions around this
8 I would be very grateful if you could please look at the
9 draft letter attached, check to confirm it reflects
10 reality accurately, mark it up where ever you think it
11 might not, and send a scanned signed version back to
12 me."

13 Did I read that correctly?

14 A. Yes, you did.

15 Q. Okay. And then attached to this email looks like
16 a draft letter. Do you recall receiving this draft from
17 Dr. Marsoner now?

18 A. I recall the first page, the second doesn't really,
19 but it was part of it, so -- January of this year,
20 right?

21 Q. Yes.

22 A. Yes.

23 Q. So --

24 A. So this is what I signed, right.

25 Q. Okay. Well, I was going to ask you. Is this what

1 you signed?

2 A. I don't know, I don't have it in front of me. You
3 have all of the papers. I guess so, right?

4 Q. Okay, the court reporter can show you what you
5 signed. We just marked it as exhibit 2.

6 A. Okay. So this is what I signed.

7 Q. Do you recall whether you made any changes?

8 A. I don't remember. I might have done.

9 Q. Okay.

10 A. It was done by me in Milan, so --

11 Q. Okay. In the second paragraph, it begins "with
12 reference to our discussions around this". What
13 discussions is Dr. Marsoner referring to?

14 A. I don't know.

15 Q. Do you recall speaking to him about this before he
16 sent it to you?

17 MR. JOHNSON: Asked and answered.

18 Q. You can answer the question.

19 A. He told me that he was going to do this, and
20 remember, there was a 2014 letter before, by Vittorio.

21 Q. Submitted in the UK?

22 A. Right.

23 Q. And Vittorio, right, and I said that letter
24 interpreted my view of what happened in Formula 1, okay.

25 Q. Mm-hm.

1 A. So the discussion, this follows that. And it says
2 exactly the same things.

3 Q. Okay.

4 A. In my view this is a continuation of
5 the January 2014.

6 Q. Okay. Okay, I understand that. And we will look
7 at that letter later. But after he sent this to you,
8 before you signed it, did you have a conversation with
9 him about it?

10 MR. JOHNSON: Objection. Leading.

11 A. I don't know. I don't remember, and honestly,
12 I don't care. I have told you the truth. What you are
13 trying to do is to prove that this doesn't represent
14 what I think. I think is not fair. I don't think it is
15 fair that we go back to, we don't go back to the
16 substance of what I say. What I say is exactly what
17 I said the year before; that I remember that
18 Mr. Pignatti's statement was similar to my recollection
19 of the facts. And this says exactly what we said
20 before. That is all I am saying.

21 Q. I am sorry you feel that way, Mr. Magnoni. What we
22 are trying to do, just to let you know what we are
23 trying to do, we will get to the substance, but I am
24 trying to take us through chronologically how this came
25 to be and then we will get into the substance.

1 So, like you said, let's get into the substance. If
2 we look at exhibit 2, which is your letter that you
3 submitted to the court, the beginning of the third
4 paragraph states:

5 "I was involved in Lehman's Formula 1 investment
6 from the outset."

7 Do you see that?

8 A. Yes.

9 Q. Okay. By that, you were referring to your
10 involvement in the Kirch deal?

11 MR. JOHNSON: Objection. Leading.

12 A. That is the investment that led us to obtain a 15
13 percent in the Formula 1 company, yes.

14 Q. Okay. Because the Formula 1 shares were pledged as
15 collateral?

16 MR. JOHNSON: Objection. Leading.

17 Q. So when Kirch -- you didn't answer, sorry, you
18 nodded.

19 A. Yes, I did, I said yes, indeed.

20 Q. Okay.

21 A. You are right.

22 Q. Okay. So when Kirch defaulted, Lehman Brothers
23 acquired the shares in Formula 1?

24 MR. JOHNSON: Objection. Leading.

25 A. All lenders had been given by the Bankruptcy Court

1 of Munich part of the assets that were secured against
2 the loans. So the loan was one. And it was syndicated
3 or split among parts.

4 Q. Okay.

5 A. So we had part of the pot.

6 Q. Okay. So after the default a loan recovery group
7 was assembled?

8 MR. JOHNSON: Objection. Leading.

9 A. Not immediately, but it was informal, I think. It
10 was pretty informal. There was, everyone was interested
11 in helping out, was brought in, like Peter Sherratt, who
12 was the senior level counsel in London. I think after
13 a while, I can't remember, it was so many years ago, but
14 after a while it became an official group. In the
15 beginning it was very spontaneous.

16 Q. Okay.

17 A. We were trying to get our money back.

18 Q. Okay. And Tom Bernard, was he part of that group?

19 A. Not at the beginning.

20 Q. Okay. When --

21 A. I can't remember. I don't have a recollection of
22 when Tom was involved, but it was a very, very senior
23 guy in the firm. So all of us were involved.

24 Q. Right.

25 A. It is not like in a commercial bank. That was

1 a partnership. Senior guys, when there was a problem of
2 half a billion dollars, we were all trying to pull in
3 the same direction.

4 Q. I know, of course. What I am trying to get at,
5 I am trying get a sense of timing. When you say it
6 wasn't immediately, was it a month later, two months,
7 are we talking a year? Did, a year go by without
8 an asset recovery group?

9 A. Given that you are so precise in your questions,
10 I want to be very precise on mine. I can't remember.
11 So I don't have the date in front of me. It was
12 15 years ago, no bloody way I remember. If it is so
13 important for you to establish the truth, you will find
14 some problems in looking that far back. I don't
15 remember what happened in those years. Imagine what
16 happened in the meantime. Lehman went belly up, so we
17 brought a bunch of people into Nomura, and this, and
18 that, and those are important things. The timing of
19 when Tom Bernard was added to the team, I have no clue.
20 He was probably there from the beginning because he was
21 part of the credit committee. So he was such a senior
22 guy in the firm, then when a loan is not repaid, the top
23 credit guy goes into his numbers.

24 Q. Okay. Who -- you said a lot of people were
25 involved. So who else was involved in trying to

1 maximize --

2 A. I don't know, I don't remember, I don't think it is
3 important.

4 Q. I am sorry?

5 A. I don't think it is important, I don't have the
6 facts, so everything I would tell you now is based on
7 a very vague recollection of the facts at that time.

8 Q. Okay. Really I just want what you remember.

9 A. I don't remember.

10 Q. Who was involved?

11 A. I don't remember, absolutely not.

12 Q. Okay, so you don't --

13 A. I think, if you are arguing with me, we are not
14 going to learn that way. So you asked me and I answer,
15 okay. So I think that the team was the lenders were
16 involved. So the group was involved and then slowly the
17 team was enlarged to make room for internal lawyers,
18 Peter, certainly, and I can't remember his deputies, it
19 is too long ago. And all of the major decisions, all of
20 the major decisions were brought up to a wide group of
21 people, including Jeremy Isaacs as the ultimate chief
22 executive of the European, whose numbers were going to
23 be hit by the failed loan. So everybody was interested,
24 everybody senior was interested, because it was going to
25 reduce the earnings for the firm in Europe in that

1 particular year, so it was so big that quite a big
2 number of people were involved, but I can't remember.

3 Q. Okay. Now, at this point you were not involved in
4 the day to day with regards to Formula 1?

5 MR. JOHNSON: Objection. Leading.

6 A. At that point I was, in that point I was. As
7 I said, slowly new people were added and only after, as
8 I said, I think, it is taped, I believe one year later
9 I was asked by the firm, by Jeremy and Dick, to loosen
10 up a bit, leave it to the guys in the recovery to try to
11 get the money back, because it was not a good use of my
12 valuable origination time.

13 Q. Okay. Let's take a look at the last sentence in
14 the letter you submitted to the court. It says:

15 "It was well understood by the Lehman decision
16 makers that Dr. Marsoner's fees normally amounted to 10
17 percent of firm's revenues."

18 Do you see that?

19 A. Yes.

20 Q. Who did you mean by Lehman decision makers?

21 A. The ones that I have told you before, anybody --
22 when we do, when we decided to have advisers we knew
23 that there was a share. The normal share of the firm
24 was 10 percent. Now, 10 percent gross, 20 net, I don't
25 know. But there was an understanding that to have

1 advisers and finders there was a standard agreement, to
2 tell you the truth, around investment banking in Wall
3 Street and the City. Particularly at Lehman, we had
4 a 10 percent approach. So it was well known by everyone
5 from Jeremy and Roger Nagioff and I am sure, I can say
6 myself, that that was the norm and therefore was pretty
7 well understood by everyone.

8 Q. Did you negotiate any consultancy agreements for
9 any advisers?

10 A. Including mine, yes.

11 Q. Did you negotiate, were you involved in the
12 negotiations of Dr. Marsoner's?

13 A. No.

14 Q. So you don't know if he was ever retained for
15 Formula 1?

16 A. I don't know.

17 MR. JOHNSON: Objection. Leading.

18 A. I assumed, like everybody else, that if he was
19 working willingly with us, and Vittorio was the entry
20 point of that negotiation, that normally would have had
21 -- I didn't know.

22 Q. Did you ask anyone whether Lehman would pay
23 Dr. Marsoner?

24 A. Not at all.

25 MR. JOHNSON: Objection. Leading.

1 Q. Do you know if anyone told Dr. Marsoner that he
2 would be paid 10 percent?

3 A. No.

4 MR. JOHNSON: Objection.

5 A. I don't know of anyone.

6 Q. Okay. I would like to mark the next exhibit,
7 please. Actually, it was marked at the last deposition.
8 We can use the previous numbers, the Marsoner
9 declaration. It was previously marked as Pignatti 4.
10 You can look at it, I have a copy. Thank you, this is
11 a declaration of Dr. Thomas Marsoner submitted in
12 support of his motion. It was previously marked it
13 Mr. Pignatti's deposition as exhibit 4. Have you seen
14 this document before?

15 A. I am not sure. I am not sure I have read this.

16 Q. Okay. I am going to point you to a particular
17 paragraph. If you can look at paragraph 8 which is on
18 page 2.

19 A. Yes.

20 Q. I am just going to read it for the record. It
21 states:

22 "In 2005, I advised Lehman in my role as Senior
23 Adviser both in emails and in telephone conversations to
24 continue Lehman's investment in F1, which service
25 I explicitly provided in exchange for 10 % of Lehman's

1 revenues related to the transaction, as was customary
2 under the Agreements. Lehman agreed both orally and by
3 e-mail to this fee in exchange for my F1 advice."

4 Do you see that?

5 A. Yes.

6 Q. Okay. Do you know who agreed orally to pay
7 Dr. Marsoner 10 percent of Lehman's revenues on F1?

8 A. I do not.

9 Q. Okay. Do you --

10 A. In 2005 I was completely outside of the recovery
11 group, so I can only tell you that we pay normally
12 advisers 10 percent when they provide advice, which we
13 follow, and deals go success.

14 Q. Okay.

15 A. That is all I want to say.

16 Q. Okay.

17 A. I don't know, I assume that more than one person
18 would have said or encouraged him at least to continue
19 providing advice.

20 Q. Okay. But you don't know --

21 A. I do not. I haven't seen a piece of paper.
22 I never seen any advisory agreement.

23 Q. Okay.

24 A. It wouldn't be up to me. It wouldn't come to me,
25 I would have agreed to the concept, but never seen

1 a piece of paper.

2 Q. Okay.

3 A. I have assumed.

4 Q. Okay, I understand.

5 A. That he was working for us.

6 Q. Okay. Did Dr. Marsoner ever ask you to look for
7 any documents or emails indicating that he would be paid
8 10 percent?

9 A. Not at all.

10 Q. Okay.

11 A. Because I wouldn't be the right person, by the way.

12 Q. Okay.

13 A. I wouldn't have that.

14 Q. Okay, I understand. I want to talk briefly about
15 BAWAG. Do you --

16 A. I know very little about BAWAG, because it was
17 Vittorio's deal. I only knew that we were working on it
18 and it was a very successful advisory deal.

19 Q. Did you know that Dr. Marsoner played a role in
20 BAWAG?

21 A. Yes, of course, yes.

22 Q. Do you know whether Lehman paid Dr. Marsoner?

23 A. Yes, yes, I know. It is usual. I know that all of
24 that, all the business was doing with Thomas would lead
25 to a fee split.

1 Q. Okay.

2 A. That was assumed by everyone since he left the firm
3 to go back home. We would, we always assumed. We
4 actually wanted people who would leave us to maintain
5 a relationship with us with that formula, because it was
6 cheaper for us, it was good, we would keep very senior
7 advice close to the firm. It was well to have it.

8 Q. Mm-hm.

9 A. So we always assumed that these guys would continue
10 working with us on that assumption.

11 Q. Okay. Did you know that the price was negotiated,
12 do you know whether the price for BAWAG was negotiated
13 between Dr. Marsoner and Lehman?

14 MR. JOHNSON: Objection. Form.

15 A. No.

16 Q. Okay. Do you know anything about Formula 1
17 refinancing its debt in 2006?

18 A. Only posteriori.

19 Q. Okay.

20 A. I wasn't involved.

21 MS. ALVAREZ: I think we can take a ten minute break. We
22 are almost done.

23 A. Okay, great.

24 THE VIDEOGRAPHER: We are going off the record. The time is
25 4:20 p.m.

1 (4:20 p.m.)

2 (Break taken.)

3 (4:26 p.m.)

4 THE VIDEOGRAPHER: We are back on the record. The time is
5 4:26 p.m.

6 BY MS. ALVAREZ:

7 Q. Okay, I would like to mark another document as
8 an exhibit. I have lost track of the numbering.

9 THE COURT REPORTER: 4.

10 Q. 4. This is a letter dated January 13, 2014.

11 (Exhibit Magnoni 4 marked for identification)

12 A. Right, that is what I was referring to before.

13 Q. From Mr. Magnoni to Daniel Schwarzman Esq joint
14 administrator of Lehman Brothers Europe Limited, the
15 Bates range is LEH 1037 to 1038. So Mr. Magnoni, is
16 this the letter you were referring to earlier?

17 A. Yes, indeed.

18 Q. This is the letter that you submitted to the joint
19 administrators of Lehman Brothers Europe?

20 A. Right.

21 Q. I just want to confirm, is that your signature on
22 the bottom?

23 A. Indeed.

24 Q. Okay. I am just going to read the body of the
25 letter for the record:

1 "I Ruggero Magnoni, senior global adviser to Nomura,
2 former vice chairman of Lehman Brothers Inc., hereby
3 confirm that Mr. Pignatti's letter of today's date,
4 a copy of which is appended to this letter, describes
5 the advisory relationship between Dr. Marsoner and
6 Lehman Brothers on F1 in a way that coincides exactly
7 with my own views of that advisory relationship at that
8 time."

9 A. Right.

10 Q. Okay. And then attached to the letter looks like
11 Mr. Pignatti's letter to the joint administrator of
12 Europe?

13 A. It is.

14 Q. Okay. Just so I understand, your statement was
15 that you agree with the contents of Mr. Pignatti's
16 letter?

17 A. Indeed.

18 Q. Okay. I want to focus on paragraph 3 of
19 Mr. Pignatti's letter. He stated:

20 "The advice was intended to be rewarded by Lehman
21 Brothers on the basis of the beneficial outcome of steps
22 taken or omitted to be taken on the basis of the
23 advice."

24 The advice we are referring to is Dr. Marsoner's
25 advice on Formula 1?

1 A. Yes. I think Vittorio Pignatti refers to that and
2 I interpreted it as such, right.

3 Q. Okay.

4 A. Because what I am saying is that I agree, and
5 I agree to that as being Marsoner's advice on Formula 1,
6 not anything else.

7 Q. Okay.

8 A. It is not clear, but that is what I think it was
9 referring to, at least this was what I thought he was
10 referring to for me to say that he, that my recollection
11 coincides with what he said.

12 Q. Okay. And this letter, you submitted it to the
13 administration for Lehman Brothers Europe, correct?

14 A. That's --er, yes.

15 Q. Okay. And this was to support Dr. Marsoner's claim
16 against Lehman Brothers Europe?

17 MR. JOHNSON: Objection. Form.

18 A. Er, I guess. So the claim of Dr. Marsoner in the
19 administration, right, so --

20 Q. Right. So you submitted this so that Lehman
21 Brothers Europe would compensate Dr. Marsoner for
22 Formula 11?

23 MR. JOHNSON: Objection. Leading.

24 A. No, I am just saying that I concur with
25 Mr. Pignatti's view, that is all.

1 Q. Why did you send this to the administrators of
2 Lehman Brothers Europe?

3 A. Because I was asked to do it. I was sent this and
4 asked whether I agreed or not with it, which I did, and
5 I do, and I will continue doing it.

6 Q. Who asked you to do it?

7 A. I think Mr. Marsoner.

8 Q. What is M&M Capital?

9 A. It is a FCA registered advisory boutique founded by
10 Mr. Marsoner and participated by me as its chairman.

11 Q. You say you are the chairman of M&M Capital?

12 A. Correct.

13 Q. And Dr. Marsoner is the founder of M&M Capital?

14 A. He is the founder and managing director.

15 Q. What does the M&M stand for?

16 A. Well, the theory was Marsoner and Magnoni.

17 Q. So you worked with Dr. Marsoner on a regular basis.

18 A. No, not much, because it was really done to have
19 the basis for a potential future activity which we never
20 really acted upon. Each of us does personal advice to
21 clients and then, you know, we book through M&M and it
22 keeps the books of the company. So this really was, it
23 was really meant to be a center of potential growth to
24 attract other, which he haven't done yet. But yes, we
25 worked together but the accounts are separate.

1 Q. Okay. You have a joint interest in the success of
2 M&M Capital?

3 A. To tell you the truth, it is not exactly that,
4 because we keep the accounts completely separate. I am
5 glad if he is successful, but it doesn't affect me.
6 Because it is like having two companies with one same
7 name. I don't think you can do that in the States, but
8 certainly you can do it in the UK, I was told, so my
9 clients pay M&M, but the they pay account B, which
10 declares a completely separate set of accounts to the
11 Inland Revenue, and to the FCA, so they are added
12 together but they are not one single entity from
13 an economic point of view. In theory, one of the two
14 can do nothing and the other do very well and one is not
15 affecting the other.

16 Q. When did you start M&M Capital?

17 A. A couples of years ago. Between -- two years ago.

18 MS. ALVAREZ: Can we just go off the record for a moment?

19 MR. JOHNSON: Are you almost done?

20 MS. ALVAREZ: Yes.

21 MR. JOHNSON: Okay.

22 THE VIDEOGRAPHER: We are going off the record. The time is

23 4:33 p.m.

24 (4:33 p.m.)

25 (Break taken.)

1 (4:34 p.m.)

2 THE VIDEOGRAPHER: We are back on the record. The time is
3 4:34 p.m.

4 MS. ALVAREZ: Lehman Brothers has no further question for
5 Mr. Magnoni. We would just like to state on the record
6 that this testimony, that Mr. Magnoni's testimony, shall
7 remain confidential and shall not be discussed with
8 third parties. Pursuant to paragraphs 8 and 9 of the
9 protective order that was entered by the bankruptcy
10 court docket number 50584, all of the testimony given
11 here today shall be treated as confidential. Once the
12 parties receive the final transcript from the court
13 reporter we shall have ten days to designate certain
14 portions confidential if we so choose. But before that
15 time, all of his testimony here today is confidential
16 and cannot be discussed with third parties.

17 A. Third parties being anybody other than me, right?

18 MR. HORWITZ: Right.

19 A. Okay, fine.

20 MR. VAN TOL: And the parties to this case.

21 MS. ALVAREZ: Right, the parties to the case.

22 A. So I cannot discuss with anyone, or can I discuss
23 with other parties to this case?

24 MR. VAN TOL: You can discuss with other parties to the
25 case.

1 A. Okay.

2 MR. JOHNSON: Okay. Dr. Marsoner has no further questions,
3 either.

4 A. Okay.

5 THE VIDEOGRAPHER: This concludes the deposition. We are
6 going off the record. The time is 4:35 p.m.

7 (4:35 p.m.)

8 (Whereupon, the deposition concluded at 4:35 p.m.)

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CERTIFICATE OF DEPONENT

I, RUGGERO MAGNONI, hereby certify that I have read the foregoing pages, numbered 1 through 68, of my deposition of testimony taken in these proceedings on Tuesday, November 17th, 2015 and, with the exception of the changes listed on the next page and/or corrections, if any, find them to be a true and accurate transcription thereof.

Signed:
Name: RUGGERO MAGNONI
Date:

1

2

CERTIFICATE OF REPORTER

3

STATE OF NEW YORK)

4

ss)

5

COUNTY OF NEW YORK)

6

7

I, Chris Lang, an Accredited Real-time Reporter,

8

do hereby certify:

9

That RUGGERO MAGNONI, the witness whose deposition is

10

hereinbefore set forth, was duly sworn by me and that such

11

deposition is a true record of the testimony given by the

12

witness.

13

I further certify that I am not related to any of

14

the parties to this action by blood or marriage, and that I

15

am in no way interested in the outcome of this matter.

16

IN WITNESS WHEREOF, I have hereunto set my hand

17

this 17th day of November, 2015.

18

19

20

21

Chris Lang

22

23

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25

1 ERRATA SHEET

2 Case Name: In Re: Lehman Brothers Holdings Inc.
3 Witness Name: RUGGERO MAGNONI
4 Date: 11/17/2015

4	Page/Line	From	To
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21 Subscribed and sworn to before
22 me this date day of month , 2015.

23 _____

24 RUGGERO MAGNONI

25

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